In the United States District Court For the District of Nebraska

UNITED STATES OF AMERICA,)	CASE NO. 4:08CR3081
) Plaintiff,)	
)	MOTION TO SUPPRESS
v.)	STATEMENTS AND REQUEST
)	FOR EVIDENTIARY HEARING
JESUS ALVAREZ,)	AND ORAL ARGUMENT
)	
Defendant.)	

Defendant Jesus Alvarez, by and through Assistant Federal Public Defender John C. Vanderslice, hereby moves this Court for an order suppressing the March 7, 2008, statements made by Alvarez to law enforcement. In support of this motion, defendant states as follows:

- On March 7, 2008, Alvarez was interviewed at the Cheyenne County Sheriff's
 Office by NSP Inv. Eads and FBI SA O'Brien.
- 2. The Rule 16 discovery material contains a report of the interview of Alvarez. The report states that Alvarez was advised of his rights and that he signed an advice of rights form. The video, however, apparently starts midway through the interview and does not include the reading of Alvarez's Miranda rights or of Alvarez signing a form waiving his rights. The video does depict the custodial interrogation of Alvarez regarding issues solely pertaining to the instant case and Alvarez making incriminating statements.
- 3. Alvarez's statements made to law enforcement were obtained while he was subjected to a custodial interrogation in violation of his rights under Miranda v. Arizona, 384

U.S. 436 (1966) and his Fifth Amendment privilege against self incrimination. Accordingly, all statements obtained pursuant to this illegal interrogation must be suppressed.

4. Accompanying this motion is a brief in support thereof.

5. Counsel requests an evidentiary hearing and estimates that approximately one-half day will be needed for this hearing. Alvarez further requests oral argument on this motion. Defense counsel notes, for scheduling purposes, that at least one of the officers is from western Nebraska.

WHEREFORE, based upon the above showing, all statements obtained as a result of the constitutionally invalid interrogation must be suppressed as evidence in the government's case in chief at trial.

Dated this 4th day of March, 2009.

JESUS ALVAREZ, Defendant,

By:/s/ John C. Vanderslice

JOHN C. VANDERSLICE **Assistant Federal Public Defender** 112 Federal Building 100 Centennial Mall North Lincoln, NE 68508 (402) 437-5871 Attorney for Defendant

CERTIFICATE OF SERVICE

Assistant Federal Public Defender John C. Vanderslice hereby certifies that the foregoing document was filed with the Clerk of the District Court using the ECM/ECF system, which sent notification of such filing to AUSA Steve Russell on this 4th day of March, 2009.

SI John C. Vanderslice

John C. Vanderslice